

Docket No. 36360/1.13

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

J. Spencer Grant et al.

Confirmation No. 7395

Application No. 09/815,885

Filed: March 23, 2001

For: **METHOD AND APPARATUS FOR
CHARACTERIZING AND
ESTIMATING THE PARAMETERS
OF HISTOLOGICAL AND
PHYSIOLOGICAL BIOMETRIC
MARKERS FOR AUTHENTICATION**

Group Art Unit: 3766

Examiner: Reidel, Jessica L.

Attorney Docket No. 36360/1.13

Date: August 18, 2007

37 CFR § 1.132 Declaration of Clark Hinton

TO THE COMMISSIONER FOR PATENTS:

1. I am a named inventor on U.S. Pat. App. No. 2002/0138768 to Murakami et al. (hereafter '768). I am also a named inventor of the present application, 09/815,885 to Grant et al. (hereafter '885).

2. I have reviewed the paragraphs 24-27 of the Office Action mailed June 15, 2007, which purport that claims 1-5, 15-23, and 30-38 of the present application are anticipated by '768.

3. I do not acquiesce nor offer any opinion with respect to the Office Action's assertion that '768 anticipates Grant's claims 1-5, 15-23, and 30-38. Regardless of the purported teachings of '768, both '768 and the present invention represent the work of a common inventive entity.

5. The listed inventors on '768 are: Rick V. Murakami, Clack T. Hinton, and Matthew W. Pettit. The listed inventors on '885 (the present application) include: J. Spencer Grant, Rick V. Murakami, Clark Hinton, and Matthew W. Pettit. The only difference in inventorship is the addition of J. Spender Grant on the present application. Both applications are assigned to Ensign Holdings LLC.

6. I hereby declare that any reference in '768 regarding, "a computer system comprising computer readable storage media comprising instructions for individualizing a heartbeat signal for use in biometric authentication ... comprising acquiring a plurality of heart beat signals from an individual ... measuring a plurality of pre-selected heartbeat waveform features to generate corresponding measurements ... and weighing the pre-selected heartbeat waveform features to provide a different statistical weight for each ..." was developed by myself (along with the other named inventors of '768). Accordingly, even if '768 discloses but does not claim such, '768 is not the invention "of another" as required by 102(e). Moreover, since each of the inventors of '768 are also inventors of the present application, any purported teachings of '768 cannot be those "of another" as required by 102(e).

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: Aug 18, 2007

Clark T. Hinton

Clark Hinton

(Insert Address)